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Can CIA Survive A New Charter?

The threat to the survival of the Central Intelligence Agency (CIA) is clearly sounded by extreme proposals in the legislation for the CIA's new charter, even though some of the worst have been removed from the bill.

The most bizarre proposal in the original draft would have legitimized tale-telling out of school by junior CIA officers. This hard-to-believe section instructed junior officers to take their complaints about "improper" activities directly to the attorney general without informing their CIA superiors.

After outraged protests from the intelligence community, this section was removed. But it reveals all too well the mindset of the Senate committee staff. Like many counterparts in the Carter administration, they are part of the post-Vietnam syndrome in their fear of American power. Indeed, they seem motivated more by a desire to cripple U.S. intelligence than to revamp a system to compete with the high-flying Soviet model.

So the time of troubles for the nation's intelligence system, after all the revelation of secrets, is not ended. The battle for CIA's survival begins next week with Senate Intelligence Committee hearings on the new charter. The committee staff, headed by the clever and immensely influential William G. Miller, showed precisely where it stands in its preparation of the draft charter.

Answering Miller's request for comment, former CIA directors protested bitterly about the draft. One wrote that it does not attempt "to enhance the proper functioning of an efficient intelligence service, but rather . . . to prevent one from operation." Despite the toning-down of some noxious proposals, the draft is still loaded with restrictions on both clandestine intelligence gathering (espionage) and covert actions ("dirty tricks").

The proposed law would require future covert operations to be "essential" to U.S. defense or foreign policy (instead of merely "important" to U.S. security, as at present). Not only that, but the president himself would have to provide a "written" opinion stating the following: that the operations are essential; that the benefits "justify" the risks of possible disclosure "to a foreign power"; that "less sensitive" alternatives cannot achieve the desired end.

Students of intelligence, including former CIA directors, fear that putting a president's personal prestige on the line would drastically reduce future covert activities. So sensitive are such operations, with their admittedly high risk of exposure or failure, that a president's signature ordering them might later be used as blackmail against him.

At least as troubling to U.S. intelligence specialists is the effort of Congress to become, in effect, senior partner with the executive in the CIA's future business. For example, the Senate and House Intelligence Committees are made active parties in drafting presidential directives and "standards" governing high-risk espionage; they would approve these presidential directives 60 days before they become effective.

That implies a congressional veto, in the view of intelligence experts. At least, it provides extended consultation between the executive and legislature, giving Congress an unprecedented power to share complex espionage decisions.

While the bill would continue the president's power to order covert operations on his own, he would have to report in detail to the two congressional intelligence committees (which have a total of 29 members). Considering Capitol Hill's record of intelligence leaks and congressional refusal to submit its staffers to the same security safeguards

that govern the executive, U.S. intelligence and cooperating foreign governments would be under a constant threat of exposure.

Even worse provisions have been removed from early drafts, such as outlawing any attempt by the CIA to seek help from another country for an activity the United States could not perform. Use of so-called "third country" allies is standard practice for every nation capable of running an intelligence service.

That and other early proposals were stricken from the draft because of protests from former CIA directors. But present CIA Director Stansfield Turner has carefully refrained from premature attack on the new charter. The reason: fear of affronting the powerful anti-intelligence cult still in vogue both in Congress and in influential middle-level ranks of the administration.

But Turner and his aides will have to move to the attack soon. They cannot count on the job being done by ex-CIA Directors George Bush, James Schlesinger, William Colby, Richard Helms and John McCone. As one wrote in distress to Miller, the committee's staff chief: "I would profoundly distrust any director of central intelligence who contended that he could operate an effective secret service under the terms [of the proposed charter]."